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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

GENEVA

COUNCIL

**Twenty-second Ordinary Session
Geneva, October 18 and 19, 1988**

ANNUAL REPORT OF THE SECRETARY-GENERAL FOR 1987

(Nineteenth Year)

I. STATE OF THE UNION

1. There was no change during 1987 regarding membership of the Union, which therefore comprises the following 17 member States: Belgium, Denmark, France, Germany (Federal Republic of), Hungary, Ireland, Israel, Italy, Japan, Netherlands, New Zealand, South Africa, Spain, Sweden, Switzerland, United Kingdom, United States of America. All, except Belgium and Spain, are party to the Revised Act of October 23, 1978.

2. The table appearing in the Annex to this report summarizes the position of the various States vis-à-vis the various Acts of the Convention, as at August 1, 1988.

II. SESSIONS

3. During 1987, the various bodies of UPOV met as described below. Unless otherwise specified, the sessions took place in Geneva.

4. The Council held its twenty-first ordinary session on October 15 and 16, 1987, under the chairmanship of Mr. S.D. Schlosser (United States of America). The session was attended by the representatives of the member States and by observers from seven non-member States, namely, Australia, Brazil, Chile, China, Morocco, Poland and Portugal. The European Economic Community (EEC), the Food and Agriculture Organization of the United Nations (FAO) and the International Seed Testing Association (ISTA) were also represented by observers.

5. The main decisions taken by the Council were as follows:

(i) The report of the Secretary-General on the activities of the Union in 1986 and the first nine months of 1987 was approved;

(ii) The program and budget of the Union for the 1988-89 biennium were established;

(iii) The progress reports on the work of its various subsidiary bodies and their plans for future work were approved;

(iv) Workshops on variety examination would be held in various countries in 1988 and 1989;

(v) A revised text of the UPOV Recommendations on Variety Denominations was adopted as appearing in document UPOV/INF/12;

(vi) The preparatory work for the revision of the Convention would be done by the Administrative and Legal Committee, which could create subgroups to deal with special questions if necessary;

(vii) Mr. F. Gougé (France) was elected Vice-Chairman of the Administrative and Legal Committee for the remainder of the term of office of Mr. M. Simon (France), who had taken up other duties at the national level. The following officers were elected for a term of office of three years, expiring at the end of the twenty-fourth ordinary session of the Council, in 1990: Mr. D.P. Feeley (Ireland) as Chairman of the Technical Working Party for Agricultural Crops; Dr. F. Laidig (Federal Republic of Germany) as Chairman of the Technical Working Party on Automation and Computer Programs; Mr. B. Bar-Tel (Israel) as Chairman of the Technical Working Party for Fruit Crops; Mr. C.J. Barendrecht (Netherlands) as Chairman of the Technical Working Party for Ornamental Plants and Forest Trees; Mr. R. Brand (France) as Chairman of the Technical Working Party for Vegetables.

6. The Council also took note of the resignation, with effect on February 29, 1988, of Dr. Walter Gfeller, Vice Secretary-General.

7. The Consultative Committee held its thirty-fifth session on April 2, 1987, and its thirty-sixth session on October 14, 1987, under the chairmanship of Mr. S.D. Schlosser (United States of America). The thirty-fifth session was mainly devoted to discussing the preparation of the commemorative book on the twenty-fifth anniversary of the UPOV Convention and the possibility of revising the Convention, and to the preparation of the Third Meeting with International Organizations. The thirty-sixth session was mainly devoted to the preparation of the twenty-first ordinary session of the Council (see above) and to the preparations for the recruitment of a new Vice Secretary-General.

8. The Administrative and Legal Committee held three sessions in 1987 under the chairmanship of Mr. F. Espenhain (Denmark): the nineteenth on March 31 and April 1, 1987, the twentieth on June 17 and 18, 1987, and the twenty-first on October 8 and 9, 1987. During the morning of October 8, the Committee held a joint meeting with the Technical Committee to discuss the items "Definition and Examination of Hybrid Varieties" and "Minimum Distances Between Varieties." The Biotechnology Subgroup of the Committee met twice, at the times of the latter's nineteenth and the twentieth sessions, under the chairmanship of Mr. M. Heuver (Netherlands). Observers from the Commission of the European Communities (CEC) and the European Free Trade Association (EFTA) participated in all three sessions of the Committee; observers from Canada and Mexico attended the nineteenth session.

9. At its sessions, the Committee considered the following subjects: (i) revision of the Convention; (ii) the work of the Biotechnology Subgroup; (iii) UPOV Recommendations on Variety Denominations; (iv) examination of

hybrid varieties; (v) minimum distances between varieties; (vi) priorities in relation to extending protection to species not already protected in member States; and (vii) preparations for the Third Meeting with International Organizations.

10. On the subject of revision of the Convention, a number of member States and international non-governmental organizations had submitted their proposals for use at the nineteenth session of the Committee. At that session, the Committee held a general exchange of views in order to identify those points for which a possible revision of the Convention should be studied.

11. The Biotechnology Subgroup of the Committee produced, for the nineteenth session of the Committee which discussed it, a first draft of a report on the "Possible Consequences of Biotechnology in the Field of Intellectual Property Protection." At the twentieth session, the Committee agreed that the report could be submitted to the Third Meeting with International Organizations.

12. At its nineteenth session, the Committee discussed proposals for amendment of the UPOV Recommendations on Variety Denominations and adopted a draft new text. At its twentieth session, it decided that this new text should be presented for discussion to the Third Meeting with International Organizations. As a result of that discussion, a further amendment was made to Recommendation 2 and the text thus amended was adopted by the Council at its twenty-first ordinary session.

13. Concerning the examination of hybrid varieties, the Committee discussed at its nineteenth session a motion submitted by ASSINSEL on the definition of maize hybrids. At its twentieth session, the Committee discussed a document produced by the delegation of France entitled "Definition and Examination of Hybrid Varieties." At the part of the twenty-first session that was held jointly with the Technical Committee, the testing procedure described in the document was further explained and discussed, and it was decided that the Technical Committee and the Technical Working Party for Agricultural Crops should receive more details of the proposed procedure and study further the technical aspects of the problem. Thereafter, the Administrative and Legal Committee would study, if necessary, the legal implications of the proposed procedure.

14. Concerning the subject of minimum distances between varieties, it was decided at its twenty-first session, during the joint meeting with the Technical Committee, that it should be discussed further on a species by species basis by the Technical Working Parties and in the workshops mentioned above.

15. At its nineteenth session, the Committee engaged in a general discussion of the question of priorities in relation to extending protection to species not already protected in member States. In accordance with a decision of the twenty-first ordinary session of the Council, the Committee will do further work on this question on the basis of document C/XXI/8 (statistics on the number of protected varieties).

16. The Technical Committee held its twenty-third session from October 6 to 8, 1987, under the chairmanship of Dr. J.K. Doodson (United Kingdom). The session was attended by representatives from member States and observers from the Commission of the European Communities (CEC) and the European Free Trade Association (EFTA).

17. On the basis of preparatory work carried out by the Technical Working Parties, the Technical Committee adopted 12 Test Guidelines (for Gooseberry, Guava, Macadamia, Mango, Zonal Pelargonium and Ivy-leaved Pelargonium, Alstroemeria, Christmas Cactus, Regal Pelargonium, Easter Cactus, Melon, Chinese Cabbage and Leaf Beet) and examined a number of questions that had arisen from the practical experience gained by the offices of the member States when conducting tests for distinctness, homogeneity and stability in the framework of their examination of new varieties.

18. The following were among the matters considered by the Technical Committee: an interim report on the replacement of the present UPOV criteria used for assessing distinctness of grasses by the combined over-years' analysis method; an interim report on the use of different electrophoresis methods in the testing of varieties of wheat; a report on the possibility of "machine vision" to identify varieties of wheat; interim reports on the study of changes in the criteria for testing homogeneity in cross-fertilized and self-fertilized plants; the increased participation of experts from professional organizations in the work of the Technical Working Parties and their Subgroups. The Technical Committee also had brief discussions on the possible revision of the General Introduction to the Test Guidelines, the question of hilum color in broad beans and field beans, the use of the term "resistance" in Test Guidelines, the use of color pictures as a supplement to variety descriptions, the revision of the first page of the UPOV Model Report on Technical Examination, the logical order of states of expression in Test Guidelines, and the increased workload of the Technical Working Parties. The Technical Committee received the reports on the progress of the work of the Technical Working Parties and gave guidance on a number of questions raised by them. It also instructed them on the major aspects of their future work.

19. The Technical Working Party on Automation and Computer Programs held its fifth session from June 10 to 12, 1987, at Lyngby, near Copenhagen (Denmark), under the chairmanship of Mrs. V. Silvey (United Kingdom). The Working Party's task was to study the harmonization of automation and computer programs used by the authorities of the member States in carrying out the examination of new varieties and, in general, the administration of their plant variety protection legislation. The Working Party continued its study on the suitable level of significance, and on the application of the combined over-years' analysis to varieties of species other than grasses; it studied various methods used in the member States when producing variety descriptions; it took note of the progress in the field of electronic exchange of information, of the collection of information on existing hardware and computer languages used in the member States and of the efforts made to develop a library of software for the assessment of varieties which could easily be exchanged between the offices of the member States.

20. The Technical Working Party for Agricultural Crops held its sixteenth session from June 23 to 25, 1987, in Geneva (Switzerland), under the chairmanship of Mr. J. Guiard (France). It completed the preparation of the first drafts of Test Guidelines for Common Vetch (revision) and for Durum Wheat (revision), for submission to the professional organizations for comment. It noted the progress on the introduction of the combined over-years' analysis for varieties of grass species. It had discussions on the concepts of distinctness and homogeneity for discontinuous characteristics of not truly self-pollinated varieties and cross-pollinated varieties, on the definition of hybrid varieties and synthetic varieties and on the question of distance between varieties.

21. The Technical Working Party for Fruit Crops held its eighteenth session from March 18 to 20, 1987, in Kiryat Anavim (Israel), under the chairmanship of Mr. F. Schneider (Netherlands). In addition to its work on Test Guidelines adopted by the Technical Committee, the Working Party completed the preparation of the first drafts of revised Test Guidelines for Blackberry, for submission to the professional organizations for comment.

22. The Technical Working Party for Ornamental Plants and Forest Trees held its twentieth session from March 23 to 26, 1987, in Kiryat Anavim (Israel), under the chairmanship of Mr. B. Bar-Tel (Israel). In addition to its work on Test Guidelines adopted by the Technical Committee, the Working Party completed the preparation of the first drafts of Test Guidelines for Tuberous Begonia hybrids, for Exacum, for Tulip and for Euphorbia fulgens (revision), for submission to the professional organizations for comment.

23. The Technical Working Party for Vegetables held its twentieth session from June 2 to 4, 1987, in Bamberg (Federal Republic of Germany), under the chairmanship of Dr. J. Habben (Federal Republic of Germany). In addition to its work on Test Guidelines adopted by the Technical Committee, the Working Party completed the preparation of the first drafts of Test Guidelines for Vegetable Marrow and Pumpkin, for Endive, for Eggplant, for Runner Bean (revision) and for Black Salsify, for submission to the professional organizations for comment.

24. The Third Meeting with International Organizations was held on October 21 and 22, 1987, under the chairmanship of Mr. S.D. Schlosser (United States of America). The meeting was attended by representatives of the member States and by members of nine international non-governmental organizations: International Association of Horticultural Producers (AIPH), International Association for the Protection of Industrial Property (AIPPI), International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL), International Community of Breeders of Asexually Reproduced Ornamental and Fruit-Tree Varieties (CIOFORA), Association of Plant Breeders of the European Economic Community (COMASSO), Seed-Committee of the Common Market (COSEMCO), International Federation of the Seed Trade (FIS), International Chamber of Commerce (ICC) and International Commission for the Nomenclature of Cultivated Plants of the International Union for Biological Sciences (ICNCP). The World Intellectual Property Organization (WIPO) was also represented.

25. The subjects discussed at the meeting were: (i) proposals for possible revision of the Convention; (ii) UPOV Recommendations on Variety Denominations; (iii) definition and examination of hybrid varieties.

III. CONTACTS WITH STATES AND ORGANIZATIONS

26. From January 15 to 17, 1987, the Vice Secretary-General took part in a meeting devoted to biotechnology and industrial property held at the European Patent Office (EPO) in Munich (Federal Republic of Germany) and organized by the Gesellschaft für Rechtspolitik (Society for Law Policy) and the Max Planck Institute for Foreign and International Patent, Copyright and Competition Law.

27. On January 21, 1987, the Vice Secretary-General received the visit of Mrs. H.I. Lommi of the Finnish Patent Office.

28. On January 30, 1987, the Vice Secretary-General took part in the meeting of the Plant Variety Protection Committee of the International Association of Horticultural Producers (AIPH) held in Berlin (West).

29. An official of the Office represented UPOV at the European Conference on Biological Diversity--A Challenge to Science, Economy and Society organized jointly by An Foras Talúntais (Agricultural Institute), the National Council for Science and Technology of Ireland and the Commission of the European Communities and which was held in Dublin (Ireland) from March 4 to 6, 1987.

30. On March 10, 1987, at the invitation of the University Institute for Development Studies in Geneva, an official of the Office gave a lecture on the protection of plant varieties as part of a course on "New Agricultural Technology and Rural Development."

31. The Genetic Resources Committee of the Food and Agriculture Organization of the United Nations (FAO) held its second session in Rome (Italy) from March 16 to 20, 1987, and the Vice Secretary-General participated in those meetings that were of interest to UPOV.

32. On May 18 and 19, 1987, the Vice Secretary-General participated in Paris (France) in the annual meeting of the representatives of the authorities of the member States of the Organisation for Economic Co-operation and Development (OECD) competent for the implementation of the OECD seed schemes.

33. On June 4 and 5, 1987, the Vice Secretary-General participated in a symposium jointly organized by WIPO and Cornell University in Ithaca (United States of America) on the protection of biotechnological inventions.

34. On June 12, 1987, the Vice Secretary-General gave a lecture on plant variety protection at the Federal Institute of Technology in Zurich (Switzerland), as part of a course on industrial property.

35. From June 29 to July 3, 1987, the Office of the Union participated in an observer capacity in the third session of the WIPO Committee of Experts on Biotechnological Inventions and Industrial Property.

36. On July 2, 1987, the Vice Secretary-General received the visit of the Director of the Department for Agriculture, Forestry and Fisheries of the Patent Office of the Republic of Korea.

37. On August 3, 1987, the Secretary-General received the visit of the Permanent Representative of Peru to the Food and Agriculture Organization of the United Nations (FAO) and discussed with him, in particular, the question of "farmers' rights," which is currently being debated within FAO.

38. On September 2, 1987, the Vice Secretary-General took part in the meeting of the Plant Variety Protection Committee of AIPH held in Tulln (Austria).

39. On September 10 and 11, 1987, the Vice Secretary-General took part in the fifth Colloquium of the International Community of Breeders of Vegetatively Reproduced Ornamental and Fruit-Tree Varieties (CIOFORA) held in Washington, D.C. (United States of America) and gave a lecture.

40. On October 27, 1987, an official of the Office gave a lecture on the results of the Third Meeting with International Organizations to the (Swiss) Committee for the Protection of Plant Varieties in Berne (Switzerland).

41. From November 2 to 6, 1987, an official of the Office attended the Twelfth Panamerican Seed Seminar in Montevideo (Uruguay) and gave a lecture on Recent Discussions on Biotechnology in UPOV.

42. From November 24 to 26, 1987, an official of the Office participated in the annual meeting of the Austrian Directors for Breeding in Gumpenstein (Austria) and gave a lecture on Austria and Plant Variety Protection.

43. On December 8 and 9, 1987, Dr. D. Böringer (Federal Republic of Germany) and an official of the Office paid a visit to the competent authorities of Czechoslovakia in Prague to discuss and advise on an outline for a law on the protection of new plant varieties.

44. The Vice Secretary-General paid official visits to the authorities in charge of the protection of new plant varieties in Belgium, France, Ireland, Sweden, the United Kingdom and the United States of America.

IV. PUBLICATIONS

45. In 1987 the Office of the Union published two issues of Plant Variety Protection and a the French version of a commemorative book on the twenty-fifth anniversary of the UPOV Convention (UPOV publication No. 879(F)).

46. The Council is invited to approve this report.

[Annex follows]

MEMBERSHIP OF THE UNION (as of August 1, 1988)
(including signatory States that are not yet members)

State ⁴	CONVENTION OF 1961 (AND ADDITIONAL ACT OF 1972) ¹			ACT OF 1978		
	Date of Signature	Date of Deposit of Instrument ²	Date upon which State became bound	Date of Signature	Date of Deposit of Instrument ³	Date upon which State became bound
Belgium	December 2, 1961 (November 10, 1972)	November 5, 1976 (November 5, 1976)	December 5, 1976 (February 11, 1977)	October 23, 1978	-	-
<u>Canada</u>	-	-	-	October 31, 1979	-	-
Denmark	November 26, 1962 (November 10, 1972)	September 6, 1968 (February 8, 1974)	October 6, 1968 (February 11, 1977)	October 23, 1978	October 8, 1981	November 8, 1981
France	December 2, 1961 (November 10, 1972)	September 3, 1971 (January 22, 1975)	October 3, 1971 (February 11, 1977)	October 23, 1978	February 17, 1983	March 17, 1983
Germany (Federal Republic of)	December 2, 1961 (November 10, 1972)	July 11, 1968 (July 23, 1976)	August 10, 1968 (February 11, 1977)	October 23, 1978	March 12, 1986	April 12, 1986
Hungary	-	-	-	-	March 16, 1983	April 16, 1983
Ireland	-	-	-	September 27, 1979	May 19, 1981	November 8, 1981
Israel	-	November 12, 1979 (November 12, 1979)	December 12, 1979 (December 12, 1979)	-	April 12, 1984	May 12, 1984
Italy	December 2, 1961 (November 10, 1972)	June 1, 1977 (June 1, 1977)	July 1, 1977 (July 1, 1977)	October 23, 1978	April 28, 1986	May 28, 1986
Japan	-	-	-	October 17, 1979	August 3, 1982	September 3, 1982
<u>Mexico</u>	-	-	-	July 25, 1979	-	-
Netherlands	December 2, 1961 (November 10, 1972)	August 8, 1967 (January 12, 1977)	August 10, 1968 (February 11, 1977)	October 23, 1978	August 2, 1984	September 2, 1984
New Zealand	-	-	-	July 25, 1979	November 3, 1980	November 8, 1981
South Africa	-	October 7, 1977 (October 7, 1977)	November 6, 1977 (November 6, 1977)	October 23, 1978	July 21, 1981	November 8, 1981
Spain	-	April 18, 1980 (April 18, 1980)	May 18, 1980 (May 18, 1980)	-	-	-
Sweden	-	November 17, 1971 (January 11, 1973)	December 17, 1971 (February 11, 1977)	December 6, 1978	December 1, 1982	January 1, 1983
Switzerland	November 30, 1962 (November 10, 1972)	June 10, 1977 (June 10, 1977)	July 10, 1977 (July 10, 1977)	October 23, 1978	June 17, 1981	November 8, 1981
United Kingdom	November 26, 1962 (November 10, 1972)	September 17, 1965 (July 1, 1980)	August 10, 1968 (July 31, 1980)	October 23, 1978	August 24, 1983	September 24, 1983
United States of America	-	-	-	October 23, 1978	November 12, 1980	November 8, 1981

¹ the figures in brackets refer to the Additional Act of 1972² of ratification if the State has signed the Convention or the Additional Act, as the case may be; of accession if it has not done so³ of ratification, approval, acceptance or accession⁴ signatory States that are not yet members underlined